

## **REMARKS**

By this Amendment, Applicant amends claims 1, 4, 6, 7, 10, and 12-16 to more appropriately define the present invention. Applicant also cancels claim 5 without any prejudice or disclaimer to the subject matter thereof. Claims 1-4 and 6-16 are currently pending.

In the Office Action, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a) and objected to claims 4, 6, 10, and 12 as containing informalities. The Examiner rejected claims 1, 7, and 13-16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,408,395 to Sugahara et al. ("Sugahara"); rejected claims 2, 3, 8, and 9 under 35 U.S.C. § 103(a) as being unpatentable over Sugahara in view of Microsoft, User Power Schemes for the Tablet PC ("Microsoft"); rejected claims 4, 6, 10, and 12 under 35 U.S.C. § 103(a) as being unpatentable over Sugahara in view of U.S. Patent No. 6,928,567 to Nakai ("Nakai"); and rejected claims 5 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Sugahara in view of Japanese Patent Application Publication No. 11-110085 to Yamanaka et al. ("Yamanaka").<sup>1</sup>

### **Regarding the drawing objection**

Applicant respectfully traverses the Examiner's objection to the drawings. The Examiner alleges that "the 'unit' limitations from claims 1, 7, 15 and 16 must be shown or the features(s) canceled from the claim(s)." (Office Action at 2.) Applicant respectfully disagrees. Applicant respectfully submits that the claimed "units" are indeed sufficiently shown in the drawings. For example, FIG. 3 of the specification

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

shows “an operation mode setting unit” 201 and/or 33A, “a time setting unit” 201 and/or 202, an operation mode control unit” 203, and “control unit” 102. Therefore, the claimed “units” are shown in at least FIG. 3 of the specification. Accordingly, Applicant respectfully requests withdrawal of the objection to the drawings.

**Regarding the claim objection**

Applicant respectfully traverses the Examiner’s objection to claims 4, 6, 10, and 12 as containing informalities. However, to expedite the prosecution of this application, Applicant has amended these claims to recite “a second speed lower than the first speed,” as suggested by the Examiner. Accordingly, Applicant respectfully requests withdrawal of the objection to claims 4, 6, 10, and 12.

**Regarding the rejection under 35 U.S.C. § 102**

Applicant respectfully traverses the Examiner’s rejection of claims 1, 7, and 13-16 under 35 U.S.C. § 102(b) as being anticipated by Sugahara. In order to anticipate Applicant’s claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Further, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” See M.P.E.P. § 2131, quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 1, as amended, recites a combination including, for example, “an operation mode acquisition and determination unit configured to acquire a current operation mode and to determine whether the current operation mode corresponds to a desired operation mode, based upon the time information set by the time setting unit

and a current time.” Sugahara fails to disclose at least the above listed claim elements as recited in amended claim 1.

Sugahara teaches “[a] power save function remote control method for a system having a first information processing apparatus and at least one second information processing apparatus which are coupled via a network.” Sugahara, abstract. “The first information processing apparatus 1 includes a power save controller 11 which outputs to the network 3 a control signal instructing the power save mode of each of the second information processing apparatus 2, . . . the second information processing apparatus 2 includes a power save mode controller 21 which switches the operation mode to the power save mode in response to a control signal input via the network 3.” Sugahara, column 4, lines 36-49, emphasis added. The control signal also “includes such information indicating the power save level.” Sugahara, column 11, lines 54-55.

Accordingly, in Sugahara, the information processing apparatus 2 only switches the operation mode whenever a control signal is transmitted from a server 1 via a network 3 without considering other information. Thus, such teaching of using a control signal to control switchover from a central position does not constitute “an operation mode acquisition and determination unit configured to acquire a current operation mode and to determine whether the current operation mode corresponds to a desired operation mode, based upon the time information set by the time setting unit and a current time,” as recited in amended claim 1 (emphasis added).

The Examiner alleges that “[i]t is therefore interpreted that the server comprises a time setting unit for setting times associated with the different operation modes. This interpretation is further apparent in fig. 11 wherein the different clients set different

operating modes at different times.” (Office Action at 3.) Applicant respectfully disagrees. In Fig. 11, Sugahara simply “shows a client status history table. The client status history table stores the power save control signal for the date and time, the status of the personal computer 32, the cause and the like.” Sugahara, column 8, lines 18-22, emphasis added. Therefore, the status history table simply shows the status of the control signal. Although the date and time of the switchover are included in the status table, such date and time record the happening of the switchover but are not used as to determine “a desired operation mode.” Instead, the control signal determines the operation mode, without considering the date and time. Thus, a mere status history table in Sugahara cannot disclose “an operation mode acquisition and determination unit configured to acquire a current operation mode and to determine whether the current operation mode corresponds to a desired operation mode, based upon the time information set by the time setting unit and a current time,” as recited in amended claim 1 (emphasis added).

Therefore, Sugahara fails to disclose all claim elements of amended claim 1. Sugahara thus cannot anticipate claim 1 under 35 U.S.C. § 102(e). Accordingly, Applicant respectfully requests withdrawal of the Section 102(e) rejection of claim 1.

Further, independent claim 7, as amended, recites a combination including, for example, “a third setting unit configured to acquire a current operation mode; to select a desired operation mode from the operation modes based upon the time zone set by the second setting unit and a current time; and to determine whether the current operation mode corresponds to the desired operation mode.” For at least the same reasons stated above, Sugahara also fails to disclose the above listed claim elements.

Moreover, Applicant respectfully submits that Sugahara is completely silent as a determination “based upon the time zone set by the second setting unit and a current time,” as recited in amended claim 7.

Therefore, Sugahara fails to disclose all claim elements of amended claim 7. Sugahara thus cannot anticipate claim 7 under 35 U.S.C. § 102(e). Accordingly, Applicant respectfully requests withdrawal of the Section 102(e) rejection of claim 7.

Further, amended independent claims 13-16, while of different scope, recite similar language to that of claims 1 and 7. Claims 13-16 are therefore also allowable for at least the same reasons as stated above. Accordingly, Applicant respectfully requests withdrawal of the Section 102(e) rejection of claims 13-16.

#### **Regarding the rejection under 35 U.S.C. § 103**

Applicant respectfully traverses the Examiner’s rejection of claims 2, 3, 8, and 9 under 35 U.S.C. § 103(a) as being unpatentable over Sugahara in view of Microsoft, because a *prima facie* case of obviousness has not been established.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Third, there must be a reasonable expectation of success. See M.P.E.P. § 2143.

Claims 2 and 3 depends from claim 1, and claims 8 and 9 depend from claim 7. As set forth above, Sugahara fails to teach or suggest at least “an operation mode

acquisition and determination unit configured to acquire a current operation mode and to determine whether the current operation mode corresponds to a desired operation mode, based upon the time information set by the time setting unit and a current time,” as recited in amended claim 1 and required by claims 2 and 3, or “a third setting unit configured to acquire a current operation mode; to select a desired operation mode from the operation modes based upon the time zone set by the second setting unit and a current time; and to determine whether the current operation mode corresponds to the desired operation mode,” as recited in amend claim 7 and required by claims 8 and 9.

Microsoft fails to cure Sugahara’s deficiencies. The Examiner alleges that “Microsoft explicitly teaches turning off a monitor and/or hard drive in a power conservation mode when no operation of the computer is made beyond a time period shorter than a time period when not in a power conservation mode [page 3].” (Office Action at 4.) Even assuming the Examiner’s allegation is true, with which Applicant does not necessarily agree, Microsoft fails to teach or suggest at least “an operation mode acquisition and determination unit configured to acquire a current operation mode and to determine whether the current operation mode corresponds to a desired operation mode, based upon the time information set by the time setting unit and a current time,” as recited in amended claim 1 and required by claims 2 and 3 (emphasis added), or “a third setting unit configured to acquire a current operation mode; to select a desired operation mode from the operation modes based upon the time zone set by the second setting unit and a current time; and to determine whether the current operation mode corresponds to the desired operation mode,” as recited in amend claim 7 and required by claims 8 and 9 (emphasis added).

Therefore, neither Sugahara nor Microsoft, taken alone or in any combination, teaches or suggests all claim elements required by claims 2, 3, 8, and 9. A *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claims 2, 3, 8, and 9.

Applicant also respectfully traverses the Examiner's rejection of claims 4, 6, 10, and 12 under 35 U.S.C. § 103(a) as being unpatentable over Sugahara in view of Nakai. Claims 4 and 6 depend from claim 1, and claims 10 and 12 depend from claim 7.

Nakai also fails to cure the Sugahara's deficiencies listed above. The Examiner alleges that "Nakai explicitly teaches that power can be conserved in a power saving mode by reducing a disk rotation speed [col. 18 lines 12-20]." (Office Action at 5.) Even assuming the Examiner's allegation is true, with which Applicant does not necessarily agree, Nakai fails to teach or suggest at least "an operation mode acquisition and determination unit configured to acquire a current operation mode and to determine whether the current operation mode corresponds to a desired operation mode, based upon the time information set by the time setting unit and a current time," as recited in amended claim 1 and required by claims 4 and 6 (emphasis added), or "a third setting unit configured to acquire a current operation mode; to select a desired operation mode from the operation modes based upon the time zone set by the second setting unit and a current time; and to determine whether the current operation mode corresponds to the desired operation mode," as recited in amend claim 7 and required by claims 10 and 12 (emphasis added).

Therefore, neither Sugahara nor Nakai, taken alone or in any combination, teaches or suggests all claim elements required by claims 4, 6, 10, and 12. A *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claims 4, 6, 10, and 12.

Applicant also respectfully traverses the Examiner's rejection of claims 5 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Sugahara in view of Yamanaka. Because claim 5 has been canceled, the Section 103(a) rejection of claim 5 is moot. Claim 11 depends from claim 7.

Yamanaka, as well, fails to cure the Sugahara's deficiencies listed above. The Examiner alleges that "Yamanaka explicitly teaches that power can be conserved by throttling a processor speed rather than running a processor fan [abstract]." (Office Action at 5.) Even assuming the Examiner's allegation is true, with which Applicant does not necessarily agree, Yamanaka fails to teach or suggest at least "a third setting unit configured to acquire a current operation mode; to select a desired operation mode from the operation modes based upon the time zone set by the second setting unit and a current time; and to determine whether the current operation mode corresponds to the desired operation mode," as recited in amend claim 7 and required by claim 11 (emphasis added).

Therefore, neither Sugahara nor Yamanaka, taken alone or in any combination, teaches or suggests all claim elements required by claim 11. A *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully requests withdrawal of the Section 103(a) rejection of claim 11.



### **Conclusion**


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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